

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

IN RE: Bard IVC Filters Products
Liability Litigation

No. MDL 15-02641-PHX-DGC

**UNOPPOSED MOTION FOR ENTRY
OF A QUALIFIED PROTECTIVE
ORDER**

By this motion, Christopher K. Johnston (“Claimants’ Counsel”) seeks the entry of the attached Qualified Protective Order allowing protected health information and/or individually identifiable health information as defined by 45 C.F.R. 160.103 or information that is otherwise protected from disclosure by Health Insurance Portability and Accountability Act of 1996 (“HIPAA”)¹ or other applicable state law, regarding the individuals listed on Exhibit A to the attached Qualified Protective Order, to be transmitted to undersigned counsel and any third-party authorized by undersigned counsel to assist in the resolution of potential liens and reimbursement claims. Defendants C. R. Bard, Inc. and Bard Peripheral Vascular, Inc. (collectively, “Bard”) do not oppose this Motion.

Bard has entered into a Master Compromise, Settlement, Release and Indemnity Agreement (the “Settlement Agreement”) with plaintiffs and claimants asserting similar claims against Defendant, including the individuals listed on Exhibit A to the attached Qualified Protective Order.

¹ HIPAA shall mean the provisions of the Health Insurance Portability and Accountability Act of 1996, Pub. L. 104-191, 110 Stat. 1936 (1996) and the implementing regulations issued thereunder including 45 C.F.R. Parts 160 and 164. HIPAA allows the Secretary of Health and Human Services to implement any appropriate or necessary regulations. *Murphy v. Dulay*, 768 F.3d 1360, 1368 (11th Cir. 10/10/2014). The Secretary of Health and Human Services promulgated 45 C.F.R. Parts 160 and 164 to address the privacy and disclosure of protected health information and/or individually identifiable health information. *Id.*

The Settlement Agreement requires the appointment of a Lien Resolution Administrator to assist in the resolution of potential liens and reimbursement claims, including, but not limited to, those that may be asserted with respect to federal Medicare benefits as contemplated by the Medicare Secondary Payer Act, 42 U.S.C. § 1395y and interpreting case law, including but not limited to private carriers that have provided coverage pursuant to Medicare Part C (any Medicare Advantage Plan); Medicaid liens; other governmental healthcare programs with statutory reimbursement or subrogation rights (including, by way of example without limitation, TRICARE, VA, and Indian Health Services benefits); or other private insurers. The Lien Resolution Administrator's duties and functions include the authority to act as agent for undersigned counsel for purposes of lien identification; to receive and release identifiable health information; and to resolve liens and reimbursement claims.

In order to complete the duties and functions described above, the Lien Resolution Administrator will need access to protected health information and/or individually identifiable health information as defined by 45 C.F.R. 160.103 or information that is otherwise protected from disclosure by HIPAA or other applicable state law, regarding the individuals listed on Exhibit A to the attached Qualified Protective Order.

45 C.F.R. 164.512(e)(1)(i) provides:

(e) Standard: Disclosures for judicial and administrative proceedings. (1) Permitted disclosures. A covered entity may disclose protected health information in the course of any judicial or administrative proceeding: (i) In response to an order of a court or administrative tribunal, provided that the covered entity discloses only the protected health information expressly authorized by such order....

The attached Qualified Protective Order has satisfactory safeguards in place to limit

the disclosure and use of protected health information and/or individually identifiable health information as defined by 45 C.F.R. 160.103 or information that is otherwise protected from disclosure by HIPAA or other applicable state law because the information cannot be used for a purpose other than the settlement of this litigation and the information must be destroyed at the conclusion of this litigation.

Wherefore, Claimants' Counsel respectfully requests that this Motion for Entry of a Qualified Protective Order be granted.

Dated: February 1, 2020

Respectfully submitted,

/s/Christopher K. Johnston

Christopher K. Johnston, Esq.
**Law Office of Christopher K.
Johnston LLC.**

250 Ponce de Leon Ave

Ste 301 PMB 5610

San Juan, PR 00918

Phone: 415.500.4273

Email: kyle@masstortslaw.com

ON BEHALF OF CLAIMANTS

EXHIBIT A

Plaintiff's Name	Plaintiff's Last Name	Date of Birth Redacted Per Fed. R. Civ. P. 5.2	MDL Case Number
Patricia	Abdella	1963	2:18-cv-02380-DGC
Darlene	Adams	1942	2:18-cv-00601-DGC
Beverly	Allen-Brown	1957	2:18-cv-02415-DGC
Kirk	Allred	1964	2:19-cv-01410-DGC
Diana	Angle	1939	2:19-cv-01502-DGC
Karen	Arkadie	1963	2:18-cv-00737-DGC
Nolan	Averett	1978	2:17-cv-00736-DGC
Augustine	Badell	1974	2:17-cv-01403-DGC
Janet	Baird	1942	2:17-cv-03978-DGC
Giles	Bartosch	1956	2:18-cv-00058-DGC
Barbara	Basey	1940	2:18-cv-00586-DGC
Thomas	Bateman	1950	2:19-cv-01415-DGC
Joseph	Bell	1960	2:18-cv-02411-DGC
Kenneth	Bird	1953	2:17-cv-04153-DGC
Samuel	Black	1969	2:18-cv-02413-DGC
Robert	Boodt	1947	2:18-cv-02436-DGC
Craig	Boyer	1959	2:18-cv-00645-DGC
Kristen	Brandenburg	1982	2:18-cv-00598-DGC
William	Brooks	1942	2:18-cv-00805-DGC
Robert M	Brown	1930	2:17-cv-02171-DGC
Ashley	Brown	1986	2:19-cv-01499-DGC
Brandon	Byrd	1979	N/A
Larry	Carpenter	1939	2:19-cv-03249-DGC
Denis	Carr	1950	2:17-cv-03957-DGC
Sheila	Casiano	1969	2:17-cv-03989-DGC
Jason	Chesla	1971	2:19-cv-01406-DGC
John	Clifford	1933	2:18-cv-00832-DGC
Michael	Corey	1970	2:19-cv-01412-DGC
Edith	Cruz	1968	2:18-cv-02432-DGC
Peggy	Cypher	1949	N/A
Valerie	Dash	1968	N/A
Curtis	Davis	1954	2:18-cv-02375-DGC
Joseph	DiFrancesco	1960	2:18-cv-02383-DGC
Roy	Dillard	1941	2:17-cv-03849-DGC
Angela	DiMaria	1938	2:18-cv-01744-DGC
Kathy	Douglas	1956	2:17-cv-04536-DGC
Gary	Dykes	1978	2:18-cv-02425-DGC

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William	Edwards	1948	2:18-cv-00740-DGC
Loren	Eleazer	1958	2:19-cv-01411-DGC
Andrew	Evans	1987	2:18-cv-01695-DGC
Donna	Ferguson	1955	2:18-cv-02445-DGC
Andrew	Ford	1945	2:18-cv-00629-DGC
William	Fraley	1956	2:17-cv-01687-DGC
Sherrell	Frederick-Seyarto	1967	N/A
Jacqueline	Freedman	1945	2:19-cv-01404-DGC
Regina	Gates	1955	2:18-cv-02442-DGC
Gina	Geary	1969	2:19-cv-01503-DGC
Barbara	Gee	1942	2:18-cv-02424-DGC
Julia	Gibson	1973	2:18-cv-00810-DGC
Deloris	Glenn	1953	2:18-cv-00735-DGC
Christopher	Green	1988	2:17-cv-01404-DGC
Jarvis	Griffin	1968	2:18-cv-00132-DGC
Marie	Gruendemann	1935	2:18-cv-00774-DGC
Sherie	Gustafson	1942	N/A
Susan	Hall	1948	2:17-cv-02454-DGC
James	Hamilton	1941	2:18-cv-00591-DGC
Deborah	Hammes	1965	2:17-cv-02469-DGC
Jo	Hampton	1974	2:18-cv-00623-DGC
Kathy	Harris	1957	2:18-cv-00818-DGC
Amanda	Harvey	1980	2:19-cv-01402-DGC
Daron	Hayes	1977	N/A
Kenneth	Hays	1956	2:18-cv-00604-DGC
Shonda	Haywood	1969	2:18-cv-00603-DGC
Allen	Heckman	1944	N/A
Johnathon	Hoffman	1960	2:17-cv-04175-DGC
Don	Hudson	1987	2:18-cv-00593-DGC
Carlton	Hughes	1959	2:19-cv-00884-DGC
Anthony	Irby	1952	2:18-cv-00746-DGC
Steven	Jackman	1972	2:19-cv-01414-DGC
Holly	James	1989	2:19-cv-01510-DGC
Allen	James-Lewis	1989	2:18-cv-03919-DGC
Patrick	Jamison	1956	2:19-cv-01508-DGC
Anthony	Jimenez	1968	2:17-cv-03981-DGC
Lawrence	Johnson	1938	N/A

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Frances	Jordan	1939	2:19-cv-01403-DGC
Terry	Kelly	1964	2:17-cv-02422-DGC
Michael	Kendall	1985	2:18-cv-03887-DGC
Alysia	Kinner-Whatley	1976	2:17-cv-04134-DGC
Jean	Lasecki	1938	2:19-cv-01408-DGC
Raymond	Leclair	1966	2:18-cv-00638-DGC
Elizabeth	Leon-Mendoza	1972	N/A
Shirley	Lewis	1958	2:19-cv-03250-DGC
Nadine	Lewis-Baptiste	1956	N/A
Mary	Lowe	1981	2:19-cv-01505-DGC
Sandra	Luscomb	1953	2:18-cv-02378-DGC
Linda	Maiden	1949	2:19-cv-02690-DGC
Claudete	May	1950	2:19-cv-01500-DGC
Steven	McKenzie	1959	2:17-cv-04117-DGC
Tanessa	McKnight	1984	2:18-cv-00070-DGC
Cynthia	McNair	1964	2:17-cv-02498-DGC
Lamont	Mealy	1971	2:18-cv-02422-DGC
Tonia	Michalski	1973	2:18-cv-00600-DGC
Patricia	Miller	1960	2:18-cv-02388-DGC
Danny	Moore	1957	2:19-cv-01501-DGC
Timothy	Morrison	1987	2:18-cv-02419-DGC
Thomas	Mott	1931	N/A
Christian	Nicholson	1965	2:18-cv-00743-DGC
James	Nolin	1954	2:19-cv-02269-DGC
Julius	Orban	1932	2:18-cv-00836-DGC
James	Orn	1932	2:18-cv-02403-DGC
Tamara	Palmer (Diehl)	1972	2:18-cv-02394-DGC
Philip	Pero	1933	2:18-cv-02395-DGC
Janet	Phillips	1941	2:19-cv-01405-DGC
Willie	Reed	1977	2:19-cv-02271-DGC
Luz	Reyes	1972	2:18-cv-02396-DGC
Edward	Robinson	1943	2:18-cv-02433-DGC
Sara	Roe	1955	2:18-cv-00824-DGC
Evelyn	Rognstad	1932	2:18-cv-00834-DGC
Kevin	Saffle	1958	2:17-cv-02500-DGC
Michael	Salamone	1955	2:17-cv-03971-DGC
Cynthia	Sanders	1958	N/A

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Jerry	Schmidt	1966	2:18-cv-00587-DGC
Rafael	Severino	1958	2:18-cv-02412-DGC
Alexander	Smith	1935	2:18-cv-00640-DGC
Lacharla	Smith	1982	2:19-cv-02268-DGC
Saverio	Sportella	1989	2:18-cv-00069-DGC
Randy	Stafford	1961	N/A
Carolyn	Stem	1943	2:17-cv-01642-DGC
Edward	Stephan	1944	2:17-cv-03977-DGC
Amy	Stephens	1989	N/A
William	Tapinekis	1938	2:19-cv-01509-DGC
Wilma	Tuthill	1939	2:18-cv-00634-DGC
Rebecca	Wallace	1970	2:18-cv-02233-DGC
Garry	Weatherford	1953	N/A
Joel	Whyms	1959	2:19-cv-01409-DGC
Joseph	Yandell	1959	N/A